

Docket No: 38-10(15849)B

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the Application of	)	Art Unit: 1631
	)	
BARRY S. GOLDMAN, et al.	)	Examiner: Carolyn L. Smith
	)	
Serial No. 09/902,540	)	
	)	
Filed: July 10, 2001	)	<b>RESPONSE TO RESTRICTION</b>
	)	<b>REQUIREMENT AND</b>
	)	<b><u>PRELIMINARY AMENDMENT</u></b>
For: MYXOCOCCUS XANTHUS	)	
GENOME SEQUENCES AND	)	
USES THEREOF	)	

#5/B  
Plunk  
10/7/02

Assistant Commissioner for Patents  
Washington, DC 20231

Sir:

Responsive to the Office Action mailed 09/06/2002 setting forth a restriction requirement and period of one month to reply, applicants hereby respond by the following election with traverse. A Petition for Extension of Time Under 37 CFR 1.136(a) accompanies this response.

In particular applicants traverse the undue division of their invention into an inordinately high number of allegedly independent and distinct inventions. The mere fact that the PTO proposes to divide 22 claims (including 5 independent claims) into 5 groups of allegedly independent and distinct inventions is evidence of arbitrary restriction practice serving no legitimate purpose other than the generation of multiple fees from applicants forced to file multiple applications. In particular, the present application provides information on the relatedness and common use of a number of groups of molecules of the present invention, including polyketide synthase encoding genes and their encoded proteins, nitrogen pathway genes and their encoded proteins, serine threonine protein kinase genes and their encoded proteins, sigma factor genes and their encoded proteins, and antibiotic resistance genes and their encoded proteins.

However, to comply with the restriction requirement and advance the prosecution of the present application, applicants hereby provisionally elect the subject matter of Group I,

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11/07/2002 ITABR1 00000002 134125 09902540

MONSANTO

**Mystic Research****Monsanto Company**62 Maritime Driv , Mystic, CT 06355-1958  
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NOV 07 2002

**GROUP 1600**

DATE: November 6, 2002

TO: Examiner Carolyn L. Smith

COMPANY: USPTO, Technical Center 1600

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Re:

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PTO/SB/97 (08-00)

Approved for use through 10/31/2002. OMB 0651-0031

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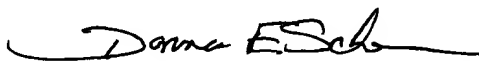
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In re Application of : Barry S. Goldman et al.

Serial No. 09/902,540

Filed: July 10, 2001

For: MYXOCOCCUS XANTHUS GENOME SEQUENCES AND USES THEREOF

Papers submitted:

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a) ( 1 PAGE)  
RESPONSE TO RESTRICTION REQUIREMENT AND PRELIMINARY  
AMENDMENT (4 PAGES)

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